

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
December 19, 2013

Members Present

Bryan Provencal, Acting Chairman
Ed St. Pierre, Clerk
Tom McGuirk
Bill O'Brien
Jack Lessard (Alternate)

Others Present

Kevin Schultz, Building Inspector
Joan Rice, Secretary

Acting Chairman Provencal called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Acting Chairman Provencal asked for a Moment of Silence for Vic Lessard who passed away last week. He said Vic was a great member and Chairman of this Committee.

Reorganization

Moved by Mr. St. Pierre, seconded by Mr. Lessard, to appoint Bryan Provencal as Chairman of the Hampton Zoning Board of Adjustment.

Vote: 4 yes, 0 no, 1 abstention (Provencal). Motion passed.

Moved by Mr. St. Pierre, seconded by Mr. Lessard, to appoint Bill O'Brien, as Vice-Chairman of the Hampton Zoning Board of Adjustment.

Vote: 4 yes, 0 no, 1 abstention (O'Brien). Motion passed.

Moved by Mr. St. Pierre, seconded by Mr. Provencal, to appoint Jack Lessard to fill the position of his brother on the Board until the next election.

Vote: 4 yes, 0 no, 1 abstention (Lessard). Motion passed.

PETITION SESSION

Chairman Provencal announced that Petition 54-13, 429 Ocean Blvd., has been withdrawn.

45-13...The continued petition of Ron Boucher for property located at 32 Depot Square seeking relief from Articles 4.5.1 and Article V as to 5.4.2 A)-2 to post signage on Lafayette Road and Depot Square. This property is located on Map 143, Lot 021A and in the B Zone.

Ron Boucher, petitioner, came forward. Mr. Boucher presented a reverse position of the photo which was originally submitted of his proposed sign. This is coming from the south as opposed to the north. This picture clearly defines that there is no visual obstruction of the gazebo. Under the circumstances this is the best case scenario. The only alternative is a roof sign which will not be visible to people driving by. Mr. Boucher went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. Lessard asked if this new sign would be on Mr. Boucher's property. Mr. Boucher said yes, but Mr. Stan Brown has an easement to put a sign there and he has no objection to Mr. Brown's easement. Mr. Brown objects to Mr. Boucher putting a sign below it. Mr. Boucher said his request has nothing to do with Mr. Brown's easement or his signage.

Comments from the Audience

Arthur Brown, 93 Barbour Road, came forward. He said he is Mr. Stan Brown's son. Mr. A. Brown presented a copy of the easement that they have. He said they are not objecting to Mr. Boucher's having a sign somewhere on his own property. The easement is very specific as to the square footage of the sign and the size of the post that holds the sign. This easement was granted in 1961 and any infringement to this sign is a damage to the easement. The easement is in perpetuity.

Back to the Board

Mr. McGuirk said he had no problem with a sign being put there, but he could not make a judgment on an easement because he was not qualified.

Mr. St. Pierre said he did not believe this sign would cause problems as depicted. It is clearly a hardship for Mr. Boucher that he is supposed to place a sign 300 feet away. Why should the owner of this property be put to a disadvantage? Mr. St. Pierre asked if the sign was put back a little bit would Mr. Boucher be able to do that. Mr. Schultz replied if there was a property line separating those two different parcels, he could. However, this is not the case.

Moved by Mr. St. Pierre, seconded by Mr. O'Brien, to grant Petition 45-13.

Chairman Provencal asked the Board if they felt the five criteria had been met. Chairman Provencal, Mr. McGuirk, Mr. Obrien, and Mr. St. Pierre said they did. Mr. Lessard said he did not feel the five criteria had been met and that the sign should be somewhere else.

Mr. McGuirk said he felt there needs to be a legal determination regarding placing the sign.

Vote: 3 yes, 0 no, 2 abstentions (Lessard, McGuirk). Motion passed.

46-13...The continued petition of Big Bernie Property Management, LLC for property located at 73 Ocean Blvd. seeking relief from Article 4.5.2 to place four support posts almost at the northerly property line and three support posts nearly at the southerly property line and extend the northerly deck and a portion of the southerly deck to the respective property lines to allow better table spacing and travel lanes. This property is located on Map 293, Lot 61 and in the BS Zone.

Attorney Peter Saari, Casassa & Ryan, came forward.

At this time, Chairman Provencal stepped down from the Board and Mr. O'Brien stepped up as Chairman.

Mr. McGuirk said he would also step down because he was a neighbor of this property.

Mr. St. Pierre also said he would step down due to formerly being accused of being biased on this project.

Acting Chairman O'Brien noted that three votes would be needed and were now not available.

Attorney Saari asked if there would be an alternate next month. Mr. O'Brien said there is a volunteer at this time. Attorney Saari said they would prefer to continue next month. Acting Chairman O'Brien said they would be first on the Agenda at the January 16, 2013 meeting.

At this time Mr. Provencal, Mr. McGuirk and Mr. St. Pierre stepped back up to the Board.

28-13...Rehearing of the petition of Living Trust – Christopher Corsones Trustee through William Reddy for property located at 458 Winnacunnet Rd. seeking relief from Article 4.1.1 and 4.2 to make existing two-family legal. This property is located on Map 222, Lot 76 and in an RB Zone.

William Reddy came forward. He said the footprint would not change and this would make the intended use of the property legal. It has been an existing two-family for years. Mr. Reddy went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked about square footage of the units. Mr. Reddy said each is approximately 760 square feet.

Comments from the Audience

One of four abutters came forward. She said she came to present a deed that would keep the property single-family. Also there is no room for parking.

Mr. McGuirk said they have to consider the more current deed. There is a deed restriction and this Board cannot give relief for that. Chairman Provencal said that would be out of the authority of the Board.

Back to the Board

Mr. O'Brien asked if the 1st and 2nd floors are separated in the interior. Mr. Reddy said no.

Mr. St. Pierre said he felt the deed information was readily available to the applicant and the subdivision plan was withheld. Mr. St. Pierre said if he had this information when it was decided to do a rehearing he would not have voted for it.

Moved by Mr. McGuirk, seconded by Mr. St. Pierre, to deny Petition 28-13.

All members of the Board agreed that the five criteria had not been met.

Vote: 5 yes, 0 no. Motion passed unanimously.

53-13...The petition of David Akell for property located at 8 Homestead Circle seeking relief from Article 4.5.2 and Article 4.5.3 for a storage shed 12' x 16' that would have 4' setbacks from the side and rear property lines. This property is located on Map 127, Lot 076 and in an RA Zone.

David Akell, Petitioner, came forward. He said this placement of the shed would be more visually appealing to the neighbors. Mr. Akell went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. McGuirk asked why Mr. Akell wanted such a big shed. Mr. Akell replied that he just wanted a larger shed.

Mr. O'Brien asked where the shed would be placed if relief is not granted. Mr. Akell said it would take up a substantial portion of the yard and the neighbors would be far more impacted.

Comments from the Audience

Sally Curran, 12 Homestead Circle, said this would be the best spot for the shed and she supports this petition.

Back to the Board

Moved by Mr. Lessard, seconded by Mr. McGuirk, to grant Petition 53-13.

Chairman Provencal asked the Board if they felt the five criteria has been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

55-13...The petition of Chateau Sylvia, LLC and Jerome Ken Sakurai for property located at 426 and 430 High Street seeking relief from Article 3.26a 4.2; (incl.fn.22); 4.3; and 6.3.9 to relocate the lot lines between the two lots and subdivide each of the new two relocated lot line lots into two lots where the lots would not have the required frontage or lot width, and moving the current Chateau parking area to the Sakurai land. This property is located on Map 166, Lots 003 and 007 and in an RB Zone.

Attorney Peter Saari, Joe Coronati, Jones & Beach, and Tracy Duherst of Chateau Sylvia came forward. Mr. Coronati said this is an application to rearrange two huge lots totaling 7 acres into 4 lots. The Victoria Inn and Mr. Sakurai are looking for a driveway to both parcels in the rear. There would be parking right next to the Inn for which permission for an easement has been received. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if this was in the aquifer. Mr. O'Brien said it was. Mr. St. Pierre said variances were previously given to the Victoria Inn. Attorney Saari said the back land was never in play.

Mr. O'Brien said he would like an opinion from the Conservation Commission. Buffers are being transversed and wetlands would be crossed. These are pork chop lots. Mr. Coronati said they do need to go to the Conservation Commission, the Planning Board and the Wetlands Commission.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Mr. McGuirk said there are some positive aspects to this petition and this eliminates impact on neighbors. Mr. Provencal said the way it is broken up isn't done very well. There is a way to accomplish what they want, but not like this. Mr. St. Pierre expressed concern about the wetlands violations. This will make the Victoria Inn more non-conforming and take the Sakurai lot and make it non-conforming. Mr. McGuirk said parking is also an issue. Mr. Coronati said that if the driveway is a concern, there is another option.

Attorney Saari said they would like to withdraw without prejudice at this time.

Moved by Mr. Lessard, seconded by Chairman Provencal, to allow Petition 55-13 to be withdrawn without prejudice.

Vote: 5 yes, 0 no. Motion passed unanimously.

56-13...The petition of Charles J and Anne M Hardy for property located at 7 Atlantic Ave. seeking relief from Articles 1.3; 8.2.3 to renovate the rear building by closing in the existing right hand side porch to the same height and with the same roof line as the rest of the building to make the living area more habitable. This would be an expansion of a building which is closer than 40 feet to the property lines and from other buildings but which would be no closer than at present. This property is located on Map 296, Lot 024 and in an RB Zone.

Charles Hardy, Petitioner, and Attorney Peter Saari came forward. Attorney Saari said this is a 100-year old building and is obsolete. It is classified as a camp. This lot has two buildings and one of them has two units. The back building is very small and is not habitable. Attorney Saari went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre said he had no problem with this petition. He just wants to make sure they are asking for the correct relief.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. McGuirk said this is definitely a needed improvement.

Moved by Mr. McGuirk, seconded by Mr. Lessard, to grant Petition 56-13.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

57-13...The petition of Donik Corporation for property located at 1 Ocean Blvd. seeking relief from Articles 4.1.1, 4.4, 4.5.1, 4.5.2, 4.7, 6.1, 6.3.4, 8.2.3, 8.2.4 and 8.2.6 to remove all of the existing buildings on the property and construct a single building with ground level commercial space and four residential units on each of the three levels above, where relief for density, height, setbacks and parking are required. This property is located on Map 298, Lot 009 and in a G Zone.

Joe Coronati and Attorney Peter Saari came forward. Attorney Saari said they plan to replace the buildings with a commercial-residential building. The footprint will be smaller. The height is just over 50 feet. There will be 12 residential units, 4 on each of the 3 floors. What is unique is that everything from this lot north is Business Seasonal. This is the only lot that is not included and is in the General zone. If this lot were in the BS Zone, it would meet most requirements. Attorney Saari said this is a gateway property. Attorney Saari went through the five criteria and said he felt they had been met. Mr. Coronati then gave an overview of the project.

Questions from the Board

Mr. St. Pierre asked if existing buildings were 50 feet in height. Mr. Coronati said that was correct. Mr. St. Pierre asked if 26 parking spaces were required, not 25. Mr. Coronati said Mr. Schultz said 25 spaces is adequate.

Mr. O'Brien said he felt the petitioners should prepare a warrant article to change the zoning from General to BS. Under General zoning, 10 variances are being requested.

Mr. St. Pierre asked what is presently on the property. Mr. Coronati said there are two businesses, some motel rooms and two year round residential units.

Comments from the Audience

Owen Carter, 2 Bailey Avenue, said he is not opposed to tearing down the present structures and putting in a new building. However, he feels the proposed building is too high. Mr. Carter paraphrased the Five Criteria and said he felt they had not been met. Mr. Carter said he would propose a three-story building with a height of 35 feet.

John Gebhart, 4 Bailey Avenue, said if this was taken to the voters and changed to Business Seasonal most of the problems would go away. Mr. Gebhart said he feels the proposed building is too high.

Cathy Silver, 3 Ocean Blvd., said she agreed with Mr. Gebhart and Mr. Carter. She said she is most concerned with environmental issues and about a dumpster that would be located under her deck.

Linda Gebhart, 4 Bailey Avenue, said the hardship requirement does not hold up for her. A less high building would be okay. Ms. Gebhart said the dumpster is in a right-of-way. Ms. Gebhart said this area is saturated with condos and many of them are empty. Access to the beach is another problem.

June White, 8 River Road, said she is opposed to the height and density. The building is too big for that location. It is already a beautiful gateway to the beach.

Back to the Board

Mr. O'Brien said he felt it is necessary to go before the Town with a warrant article to change the zoning. He also said he would prefer three stories and would accept a height of 39 feet. The dumpster should be located south of Bailey in the parking lot and not adjacent to the right-of-way on Bailey Ave. or Bailey Ct.

Mr. St. Pierre said he does like the building but thinks three stories would be better. There are too many variances being asked for in this petition. Mr. St. Pierre suggested withdrawing without prejudice.

Mr. Lessard said he felt this building would be an attractive gateway to Hampton Beach.

Chairman Provencal said he liked the building and agreed with Mr. Lessard that something new should come in at that location. Chairman Provencal said he could see both sides of this discussion.

Attorney Saari said they would like to withdraw without prejudice and come back with a different plan.

Moved by Mr. O'Brien, seconded by Mr. St. Pierre, to allow Petition 57-13 to be withdrawn without prejudice.

Vote: 5 yes, 0 no. Motion passed unanimously.

BUSINESS SESSION

Approval of the Minutes

Moved by Mr. St. Pierre, seconded by Mr. Lessard, to approve the Minutes of November 21, 2013 as amended.

Vote: 4 yes, 0 no, 1 abstention (McGuirk). Motion passed.

The Alternate position was discussed. A letter was received from James F. Scully Jr. expressing interest in the position.

Mr. McGuirk said he has known Mr. Scully for many years and would endorse him.

Moved by Mr. McGuirk, seconded by Mr. O'Brien, to appoint James F. Scully Jr. as Alternate to the Hampton Zoning Board of Adjustment for two years and three months.

Vote: 5 yes, 0 no. Motion passed unanimously.

Adjournment

There being no further business, the meeting was adjourned at 10:33 p.m.

Respectfully submitted,

Joan Rice
Secretary